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The role of diamonds in fuelling conflict

Letter dated 17 November 2006 from the Permanent Representative of Botswana to the United Nations addressed to the Secretary-General

I have the honour, on behalf of the Chair of the Kimberley Process, and pursuant to paragraph 14 of General Assembly resolution 60/182, to hereby transmit the 2006 Kimberley Process report (see annex) and request that the present letter and its annex be circulated as a document of the Assembly, under agenda item 10.

(*Signed*) Samuel O. **Outlule**
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Annex to the letter dated 17 November 2006 from the Permanent Representative of Botswana to the United Nations addressed to the Secretary-General

Report of the Kimberley Process to the General Assembly

November 2006

Introduction

1. Republic of Botswana in her capacity as the 2006 Chair of the Kimberley Process Certification Scheme, is submitting this report pursuant to UN General Assembly Resolution 60/182. *The resolution had requested* the Chair of the Kimberley Process to submit a report on the implementation of the Process to the General Assembly at its sixty-first session under the heading "*The role of diamonds in fuelling conflict: breaking the link between the illicit transaction of rough diamonds and armed conflict as a contribution to prevention and settlement of conflict*".

Background

2. The Kimberley Process is a unique tripartite partnership between governments, NGOs and the diamond industry. It was established with the paramount objective of regulating the international trade in rough diamonds to exclude conflict diamonds. The international community was outraged and responded to stop the most brutal and horrific conflicts, characterized by periods of systematic violation of international law, grave abuses of human rights, gradual degradation of the rule of law and order as well as governance and democracy. This development laid a firm foundation for building a global partnership for fostering peace and security.

3. The legitimacy of the Kimberley Process on a global level was conferred upon it by the UN Security Council resolution 1459 (2003) and reflected in subsequent UNSC resolutions in respect of Liberia and Cote d'Ivoire. These resolutions, together with the annual UNGA resolutions have affirmed the validity of the mandate of the Kimberley Process and further increased its international standing and credibility. For its part, the Kimberley Process has assumed a transparent, inclusive, non-discriminatory, pragmatic, flexible and ad hoc approach in its work. It has incorporated a peer review mechanism and statistical reporting to identify possible implementation issues and spread best practice.

Contribution of the KP to International Peace and Security

4. Since the establishment of the Kimberley Process, the geo-political factors that necessitated its creation, including many of the conflicts that led to the international outcry against "conflict diamonds", have changed significantly. Peace and stability has since returned to many of the countries that were formerly affected by conflict, such as Angola, Sierra Leone and the Democratic Republic of Congo. Today, the Kimberley Process Certification Scheme (KPCS) is

being implemented against the backdrop of overall improved international peace and security characterized by more democratically elected governments, greater awareness and demand for good governance, respect for the rule of law and human rights as well as better security. The KPCS has been both a major contributor and a beneficiary of this improved security environment.

5. An improvement in the security environment has been conducive for the development and implementation of KPCS requirements and in particular the vital internal controls necessary to guarantee the conflict free origin of all internationally-traded rough diamonds. At present, due to the international requirement more rough diamonds than ever before are being handled in accordance with the provisions of the KPCS. This has drastically reduced the opportunity for conflict diamonds to infiltrate the legitimate trade in rough diamonds.

6. The achievements of the KPSC are highly commendable. This is the result of tireless efforts and resolute commitment of the international community to collectively prevent in a comprehensive manner, the use of diamonds to fund civil insurgency. The recent 3-year review of the KPCS hailed the Scheme as a remarkable success, which has performed far above initial expectations given the enormous challenges which it had to address. The success of the KPCS represents an excellent example of global cooperation and what can be achieved through multilateralism.

7. In the period under discussion, the KPCS welcomed the membership of New Zealand and Bangladesh. It also received a significant number of expressions of interest from other countries concerning the requirements for joining the Scheme. The increase in the number of Participants in the last year bears testimony not only to the importance that the international community attaches to the process, but also to awareness of the important contribution made by the KPCS to conflict prevention.

8. Contributing to international peace and stability through closer cooperation with international organizations in accordance with their mandates has become one of the strategic goals of the Kimberley Process partnership. The United Nations has always been an invaluable partner in this regard. It has been highly supportive of the Kimberley Process and has contributed immensely to its work.

Operation of the Kimberley Process in 2006

9. The Kimberley Process has four standing working groups; the Working Group on Monitoring, the Working Group on Statistics, Working Group on Participation (Participation Committee) and the Working Group of Diamond Experts. The composition of these working groups is reflected in enclosure 4. The Kimberley Process also set up an Ad-hoc Working Group on the review of the KPCS, as well as the Selection Committee. The activities of these working groups during 2006 are briefly outlined below:

Working Group on Monitoring

10. The Working Group on Monitoring focused its activity on three main areas; the regular implementation of the peer review system, monitoring of implementation issues and the 3-year Review of the KPCS. In this context, in addition to continuing implementation of the different components of peer review, the efforts of the Working Group focused on more consistent follow-up to review visits, with a view to ensuring that such review visits are part of a long-term and sustained process of enhancing implementation of the KPCS, rather than isolated 'one-off' events. At the time of the Gaborone Plenary, which was held from 6 to 9 November 2006, a total of 34 Participants had received review visits since the establishment of the KPCS (see enclosure 3). This is a significant improvement compared to only 19 by the time of last year's Plenary. In total, 43 of the 47 Participants have received or invited review visits. It is encouraging and reassuring that a large number of Participants are monitored under the peer review mechanism. This is important for the continued credibility of the scheme. The Working Group plans to begin a second round of review visits starting in 2007 as a way of furthering the monitoring process.

11. The Working Group on Monitoring also devoted particular attention to the monitoring of the situation in Côte d'Ivoire, pursuant to the Moscow Resolution setting out specific measures to prevent trade in conflict diamonds from the Northern rebel-held part of the country. The issue was further referred to the Working Group on Monitoring by the Chair of the Kimberley Process, in October 2006, as a result of the conclusions of the UN Panel of Experts on Côte d'Ivoire. The UN Panel of Experts had concluded that conflict diamonds may be smuggled through Ghana and are entering into the legitimate trade, thereby undermining the effectiveness of the Kimberley Process. The Working Group on Monitoring presented recommendations to the Chair on immediate measures with respect to Ghana and, in particular, recommending that a high-level Special Envoy be sent there to express the concern of the Kimberley Process, initiate formal discussions and report back to the Kimberley Process at the Gaborone Plenary.

12. A Special Envoy visited Ghana from 30 October to 1 November 2006. The Envoy reported to the Gaborone Plenary on the outcome of a successful visit. In addition, to the Chair's Envoy, the President of Botswana sent as his Special Envoy, Botswana's Minister of Minerals Energy and Water Resources to meet with the President of Ghana to ensure that concerns of allegations made against Ghana are shared and responded to at the highest possible political level. An action plan intended to remedy the weaknesses identified in Ghana's system of internal controls was developed and agreed with the Government of Ghana. This plan provides a period of three months to address certain internal control issues in order to strengthen systems. The Plenary adopted an administrative decision to send a review mission to Ghana by 28 February 2007 to assess Ghana's implementation of the agreed action plan (see enclosure 1).

Working Group on Statistics

13. Statistics form an integral part of monitoring to ensure that conflict diamonds do not enter the legitimate trade in rough diamonds. Participants are required to submit statistics on a quarterly basis and all Participants submitted statistics for 2005, an improvement over 2004. The annual

analysis exercise enables specific concerns for individual Participants to be brought to the forefront. The Working Group on Statistics collected and analyzed the 2005 statistics for all the Participants. Data discrepancies were the most common problem identified. However, certain data discrepancies were resolved through bilateral reconciliations. Data analysis, capacity building, the provision of technical assistance and data transparency were the key issues considered by this Working Group.

14. The Gaborone Plenary endorsed the concept of transparency in statistical reporting by approving the immediate release of Kimberley Process summary data on trade and production, by value and volume, and certificate counts for 2004 and 2005 data.

Working Group of Diamond Experts

15. During the Moscow Plenary, the Working Group of Diamond Experts had been mandated to assist with technical analysis of the volume and characteristics of production likely to be exported from Côte d'Ivoire. Using historic information, the Working Group has now developed a size-frequency distribution diagram on Côte d'Ivoire production. Size-frequency distribution provides a tool for determining the "footprint" of diamonds from a given area. This is, however, possibly more accurate on unsorted production. The limitation of using a footprint in identifying diamonds from Côte d'Ivoire is that it works only on unsorted production, or so-called run of mine production. Diamonds from Côte d'Ivoire are invariably exported in a sorted form, hence the difficulty of using this tool to identify Ivorian diamonds. An additional tool being investigated is the use of digital photography to differentiate diamonds by origin and, consequently, further make it difficult for conflict diamonds to enter the legitimate trade. While pictures of production from various countries either exist or can be obtained, the diamond industry currently has no digital pictures of typical diamond production from Côte d'Ivoire. The UN Operation in Côte d'Ivoire (UNOCI) may be able to assist in obtaining digital pictures of Côte d'Ivoire's unsorted production. The Gaborone Plenary requested the WGDE to organize a seminar on diamond origin determination and to report back to the next Plenary.

16. The Gaborone Plenary also mandated the working group to approach the Harmonized System Committee of the World Customs Organization to advance classification issues and prepare a photo table.

Participation Committee

17. An important part of the work of the Participation Committee is to encourage the widest possible participation in the KPCS by countries dealing with rough diamonds. In this regard, during this year, the Committee considered and approved applications from New Zealand and Bangladesh to join the KPCS. In addition, the Committee continued to engage those applicants whose applications are still pending, to meet the minimum requirements for joining the KPCS. Follow up in this regard was made with Cameroon, Cape Verde, Gabon, Mali, Mexico, Philippines, Swaziland, Tunisia and Turkey. These applications are at various stages of readiness.

Technical assistance for KP implementation

18. A number of Participants and organizations have been active in providing technical assistance to enhance capacity building for implementation of the KPCS. Some of the countries and organizations that have and continue to provide such assistance are Canada, US, Dubai Multi Commodities Center and De Beers. Belgium has announced funding to launch a comprehensive study to develop an action plan to enhance internal controls and address the problems of small-scale miners.

19. The U.S., in its role as the coordinator for technical assistance, identified several major assistance programmes underway in the diamond sector. The U.S. has had a long-standing assistance program in Sierra Leone and in 2006 launched a new program in Liberia to help that country prepare for participation in the Kimberley Process. There are good prospects for public-private partnerships in the diamond sector with De Beers launching a $2 million community development program in cooperation with the Government of the United Republic of Tanzania. De Beers and the Dubai Multi Commodities Center have also cooperated with U.S. efforts to provide training of diamond evaluators and equipment to Liberia. The United Nations Development Program is also helping to foster cooperation among the diamond-producing countries of the Mano River Union and sponsored a conference in June to promote regional harmonization of policies. In addition the World Diamond Council has provided technical assistance and training to many KP Participants over the years. The World Diamond Council will over the next three months, assist Ghana by inspecting Ghanaian diamonds as part of the agreed action plan to improve the country's internal controls.

20. The Kimberley process continues to encourage donor countries and other interested stakeholders to continue to provide assistance to other Kimberley Process Participants and to notify the coordinator of their needs.

Major Achievement of the KP during 2006

21. During 2006, a major preoccupation of the Kimberley Process was the review of the KPCS, as agreed by Participants that the Scheme would be reviewed within three years of its implementation. The KPCS was implemented starting July 2003. The review, the final report on which is attached as enclosure 2, focused on three main areas: (a) the impact of the KPCS on the international trade in rough diamonds, and the extent to which the Scheme has been effective in preventing the flow of conflict diamonds into the legitimate trade, (b) the technical provisions of the Scheme and whether they are functioning as planned or require improvement and (c) the operations of the Scheme, their effectiveness and efficiency.

22. The major findings of the review are as follows:

Role of governments, industry and civil society

22.1. The inclusive nature of the KP has been a key ingredient in the success of the KPCS with each type of actor bringing their respective interests, expertise, skills and knowledge to the table. Industry and NGO Observers have been involved in the working groups and in review visits and missions from the beginning. The Participants of the KPCS are very varied, ranging from alluvial to industrial producers of diamonds, to trading and cutting/polishing countries, of different sizes, in different continents, and with vastly differing stakes in the diamond industry. Nonetheless the KPCS has maintained an inclusive approach in line with the General Assembly mandate granted to it, and has been stronger as a result.

Working methods: burden sharing and flexibility

22.2. The flexible structure of the KP, including a rotating Chair, and the devolution of considerable responsibilities to smaller working groups, has achieved remarkable progress in a very short time. A wide and increasing range of Participants and Observers have participated in review visits and missions, and diversity of leadership has been growing. The frequent teleconferences and email exchanges utilized by working groups have ensured constant review and development in a very efficient, low-resource manner (and Participants in different time-zones have been very flexible to allow teleconferences to take place at the least inconvenient time for the majority). There has been a steady stream of innovations, developments and improvements initiated in working groups, transforming the KPCS over time. However, there are questions about the sustainability of this over the long-term.

22.3. The KP website, both the Participant and public sections, respectively, could be improved to include more documentation as appropriate, and organized to show clearly what it contains. All Plenary documents should be made available in the working languages of the Plenary. Moreover all documents generated by the peer review system should be made accessible more systematically to all Participants and Observers, and to selected international organizations, notably in the UN system.

Decision making

22.4. The most important principle of the operation of the Kimberley Process, which has proved effective and which should be retained, is that decision-making is on the basis of consensus. There are no entrenched negotiating blocs of Participants but rather a continual search for mutually acceptable solutions on the basis of mutual respect and trust. Consensus has enhanced the confidence of Participants and the sense of shared ownership and legitimacy.

Legal status

22.5. The Kimberley Process is essentially a consultative intergovernmental mechanism operating with the support of industry and civil society and is aimed at excluding "conflict diamonds" from legitimate international trade channels. To achieve this goal, the KP Participants have adopted a Certification Scheme, established by a document which provides for the creation and development of an international certification scheme for rough diamonds, on the basis of national systems. The KPCS is not a legally binding document, in the strictest terms of international law. However, the KP Participant countries considered it necessary to voluntarily fulfill the KPCS minimum requirements at the national level and have adopted relevant laws and/or executive acts to that effect, resulting in its provisions having the force of national law in Participant countries.

International community

22.6. The KP has enjoyed a good relationship with the wider international community, notably the UN General Assembly[1] and Security Council[2], the WTO (which granted a waiver) and World Customs Organization (which agreed changes to its documents). The support of the United Nations has been important for the legitimacy and authority of the KP. At the same time, there is scope for enhanced co-operation with bodies working on issues of diamond sector governance from a development or conflict prevention perspective, both in the UN system and among the international financial institutions. This kind of cooperation will be carried out on the basis of approved regulations and bilateral arrangements with international organizations.

Impact

22.7. The Kimberley Process has had a very significant impact in curbing the illicit production of and trade in diamonds in countries affected by conflict diamonds. The countries concerned, with the exception of Cote d'Ivoire, themselves recognized this in their responses to the questionnaire (DRC, Angola, Sierra Leone). Every annual assessment since the introduction of the KP has seen significant increases in the percentage of their diamond production and trade captured by legal channels and the KPCS.

22.8. Increasingly, Participants are able to report cases of infringements of the provisions of the KPCS in their jurisdictions (many active cases are of course *sub judice*) demonstrating increased awareness of KPCS requirements by law enforcement and customs officials, and enhanced effective deterrence.

1 Beginning with Resolution 55/56 January 29, 2001

2 Security Council Resolution 1459 of January 28, 2003 endorsed the KPCS

Technical provisions

22.9. The technical provisions of the Scheme, including the Kimberley Process Certificate, are widely considered by Participants to be appropriate and effective, without being unduly onerous. There are some difficulties in the relationship between KP definitions of technical terms and their usage in other contexts; not all Participants apply every technical provision to the full; and sometimes it takes time and/or imposes costs on industry to comply with requirements, but generally KPCS technical rules are considered to be consistent with other international and national rules, and to be proportionate.

22.10. Overall, 71% of Participants responding directly to the questionnaire agreed without any caveats that the operation of the Kimberley Process Certification Scheme has been simple and workable. None could identify areas where simplification was required. This represents substantial progress but there is always room for improvement. In this respect, some (29%) of respondents confirmed that implementation of existing rules could be improved.

Implementation of internal controls

22.11. Implementation of internal controls, as envisaged in Section IV of the KPCS document, is a crucial element of the mechanism of the Certification Scheme. Participant countries have taken steps to implement mandatory internal control requirements, as well as optional measures contained in Annex II to the main document. Participants agreed in Plenary on a further package of internal control provisions applicable to all types of Participants (producing or trading) whose implementation will be promoted through peer review visits, reporting and dialogue.

Peer review

22.12. One of the most important features in the Kimberley Process has been its system of peer review. The central component of this has been its system of review visits which, while remaining consensual, has enabled assessment and improvement of Participants' implementation of the KPCS. However, there are issues related to weak or total non-compliance that would not have been discovered by the current system due to lack of time to undertake penetrating research into some of the persistent problems in the diamond industry. A number of possible improvements to this system have been identified by the Working Group on Monitoring and it is intended that these will be implemented in a second round of review visits.

Statistics

22.13. The KPCS has placed a high priority on collecting statistical reports from Participants and this has ensured that Participants are all aware of the requirement to provide bi-annual production and quarterly trade data. The vast majority of Participants now submit their reports on a timely basis. However, some Participants and Observers are concerned about the accuracy of the data collected. With three years' of data collected, the emphasis now should move to analysis of the data.

Dispute resolution

22.14. There has so far been one occasion on which the formal dispute resolution provisions of the KP have been invoked. This ultimately led to the removal of a Participant. By general consensus, this instance is perceived to have strengthened the KPCS by demonstrating that it has "teeth" and the ability to act decisively when the integrity and credibility of the KPCS is threatened. To date, all other disputes have been handled informally by the Chair or by KP working groups within the terms of their respective mandates. In order to make dispute resolution more transparent, however, it may be necessary to develop and adopt criteria for the removal of the countries from the list of KPCS Participants.

Participation

22.15. There is widespread agreement that the Scheme has remained open on a global, non-discriminatory basis to all Applicants willing and able to fulfill its requirements, and respondents report satisfaction with the work of the Participation Committee in this regard. Participants agreed to look into possible interim measures which could be used for Participants that fail to comply with the Scheme's requirements. This could be a stage before removal of a Participant from the list. The measures agreed in respect of Ghana are a good example of a flexible solution which on the one hand protects the legitimate diamond industry in Ghana while preserving the credibility of the KPCS on the other which rests upon the foundation of reliable certificates of origin.

Industry self-regulation

22.16. At least one Participant has an innovative system of industry self-regulation allowing members of industry bodies 'fast track' access to Kimberley Process certificates in exchange for them signing up to a number of detailed requirements to ensure that Kimberley Process requirements are observed. Importantly, this self-regulation is subject to supervision and audits by competent authorities. The majority of Participants have no similar system of industry self-regulation in place.

Technical assistance

22.17. Although the Kimberley Process was slow to address the issue of technical assistance, it has now responded to the needs being identified by review visits and raised by Participants. The response entailed the setting up of an informal technical assistance co-ordination mechanism at the Moscow Plenary currently coordinated by the US. This has begun by drawing together a compilation of existing technical assistance programs for Participants and, in some cases, actual or potential applicant countries, drawing *inter alia* on review visit findings. This work is still in its infancy. Any Participants requiring technical assistance are invited to make their needs known to the coordinator of technical assistance. Furthermore, Canada, as Chair of the Working Group on Statistics, is also making available technical assistance, including workshops, specifically on statistical requirements.

General Level of satisfaction

22.18. Most Participants, whether producing and trading, or trading only, concluded in their responses that the KPCS met their requirements well.

22.19. The Plenary endorsed the conclusions of the 3-year review of the KPCS and adopted the 46 recommendations of the report to strengthen the Kimberley Process. In addition, it was agreed that four other issues would receive priority attention in the year ahead. These are; (i) funding and resource requirements, (ii) improving statistical data gathering and analysis, (iii) effective and credible government oversight of the diamond industry and (iv) the treatment of illegal shipments.

Challenges facing the Kimberley Process

23. The situation in Côte d'Ivoire, where diamond mining continues under areas held by Forces Nouvelles, and the apparent leakage of these diamonds into the legitimate trade, remains a major area of concern and a significant challenge for the Kimberley Process. The Kimberley Process has been monitoring this situation and continues to cooperate with the UN. In April 2006, the Kimberley Process joined the Panel of Experts on Côte d'Ivoire on a field trip to the diamond mining area to assess, *inter alia*, the level of production.

24. Following the Panel of Experts report which concluded that Ivorian diamonds are being smuggled through Côte d'Ivoire's neighbouring countries, including Ghana, a Kimberley Process Participant, the Kimberley Process was gravely concerned about the threat that this poses to the credibility of the KPCS. Reports from the Kimberley Process review visit to Ghana and a United Nations' Group of Experts on Côte d'Ivoire indicated the possibility of diamonds mined in the rebel-held territory entering international markets through Ghana. Additional reports from the Kimberley Process Special Envoy to Ghana, a representative from Côte d'Ivoire, and the U.N., as well as the Kimberley Process experts who visited Côte d'Ivoire in April 2006, reiterated this concern. The Kimberley Process urged the Government of Ghana to take the necessary steps to ensure full compliance to its Kimberley Process obligations. To this end, the Kimberley Process called on Ghana to take immediate steps to ensure that Ghana strengthens its internal controls to eliminate the weaknesses identified in its diamond handling systems. Ghana has expressed its unwavering commitment to fully investigate the allegations as well as take appropriate measures to strengthen its internal controls and other safeguards against illicit diamonds. It indicated its willingness to work with the Kimberley Process and to take advantage of technical assistance offered to ensure full compliance. In this respect, it invited a review mission to Ghana in three months to verify compliance.

25. Some of Côte d'Ivoire's neighbours are not Kimberley Process Participants and, therefore, the Kimberley Process has relatively limited influence over such countries. The Kimberley Process views the problem of leakage diamonds from Côte d'Ivoire into the legitimate trade as one that may require a regional approach to resolve. To that extent, the Kimberley Process plans to pursue regional solutions by, among other things, encouraging all countries in the region to join the KPCS as recommended in Security Council resolution 1572 (2005).

26. The other area where there are challenges that require a regional approach is in South America, and specifically concerning Brazil, Guyana and Venezuela. Brazil has offered to host a trilateral meeting to address regional diamond trade concerns regarding internal diamond control. Guyana has also indicated its interest in participating in any regional meetings aimed at resolving diamond related issues. The Kimberley Process has agreed to send a fact-finding review mission to Venezuela to investigate questions about its control over diamond production and exports.

Kimberley Process Cooperation with the UN and its Organs

27. During 2006 the Kimberley Process dealt with matters under its purview in close conjunction with the relevant UN bodies. These include Côte d'Ivoire and Liberia in accordance with UNSC resolutions 1572 (2005) and 1521 (2003) respectively.

28. A joint Mission with the Group of Experts appointed pursuant to UNSC 1572 (2005) was also undertaken to Côte d'Ivoire in April 2006. The Mission confirmed that illicit diamond production was occurring in the rebel held territory of Tortiya and Seguela, and KP experts provided estimates of the level and value of that production to the UN Group of Experts. The report of the UN Group of Experts drew attention to the possibility of illicit diamonds infiltrating the KPCS in neighbouring countries, due to weak and/or inadequate internal controls.

29. In May 2006, the KPCS sent an expert mission to Liberia aimed at gauging the adequacy of Liberia's internal controls in accordance with the minimum requirements for joining the KPCS. This Mission reported the progress made by Liberia in setting up transparent and auditable internal controls including national legislation on regulating diamonds. However, it felt that more work needed to be done towards full compliance.

30. Liberia was invited to and had representatives attend the Gaborone Plenary where they reported on progress in establishing a diamond certification scheme to satisfy the criteria of the Kimberley Process as requested in the UN Security Council Resolution 1521 (2003).

Kimberley Process Cooperation with other initiatives

31. The diamond industry and some NGOs have started the Diamond for Development Initiative (DDI) whose aim is to improve the working conditions and remunerations of artisan diamond miners. The DDI and the Extractive Industries Transparency Initiative were invited to and made presentations at the Gaborone Plenary. It was agreed that the Kimberley Process will be updated on these and other initiatives which seek to address development issues facing countries with artisanal diamond mining.

Conclusion

32. The Kimberley Process continues to have a positive impact in eliminating conflict diamonds from the legitimate trade in rough diamond. Attestations to this are included in the findings of the 3-year review. The Kimberley Process does however still face a number of challenges. The major

one is the prevention of Côte d'Ivoire diamonds from contaminating other countries' legitimate production. Some of the pragmatic solutions advanced during the Gaborone Plenary promise to further make it difficult for diamonds from Cote d'Ivoire to enter the legitimate trade in rough diamonds.

Way Forward

33. There is a continuing need to strengthen the KPCS. In this regard, it is vitally important that as many as possible of the recommendations arising out of the 3-year review be implemented as a matter of urgency. Participant countries must vigorously continue pursuing the improvement of internal controls; deal with the problem of diamonds from Cote d'Ivoire and further expand the Kimberley Process membership.

34. In terms of the KP procedures, on expiry of the Chair's term of office (one year), the Vice Chair automatically ascends to the Chair with only the Vice Chair being selected at the Plenary. The European Community as Vice Chair for 2006 will become Chair with effect from 1 January 2007. The Plenary elected India as Vice-Chair for 2007.

Enclosure 1

Final communiqué

1. The Kimberley Process met November 6-9 in Gaborone, Botswana, at its annual plenary and approved a plan to help Ghana strengthen its internal diamond controls or face a possible loss of its Kimberley Process status. A special Kimberley Process review mission will visit Ghana in three months to review progress.

   The plenary addressed findings of the Kimberley Process review visit to Ghana and reports from a United Nations' Group of Experts on Côte d'Ivoire that diamonds mined in the rebel-held territory are entering international markets through Ghana. The plenary heard reports from its Special Envoy to Ghana, its review visit leader, a representative from Côte d'Ivoire, and U.N. and Kimberley Process experts who visited Côte d'Ivoire in April 2006. The plenary concluded that there may be credible indications that Ghana has not complied with its Kimberley Process obligations. Plenary decided that Ghana must take immediate steps to ensure that Ghana export only Ghanaian diamonds. The plenary agreed to send a review mission to Ghana in three months to verify compliance. Ghana officials committed to take appropriate measures to maintain the integrity of the Kimberley Process.

2. The plenary endorsed the conclusions of the Third Year Review of the KPCS prepared by the ad hoc Working Group adopting 46 recommendations to strengthen the Kimberley Process. The plenary agreed to: publish the names of participants which habitually fail to submit statistics; highlight requirements related to illegal shipments; develop proposals related to interim measures including possible suspension in cases of significant non-compliance; and the creation of the Working Group on Artisanal-Alluvial Production. The plenary agreed that four other issues would receive priority attention in the year ahead: funding and resource requirements; improving statistical data gathering and analysis; effective and credible government oversight of industry; and the treatment of illegal shipments.

3. Responding to calls from participants, civil society and the World Diamond Council, the plenary agreed on stronger internal controls standards for participants which produce, trade, cut and polish diamond. These measures offer clearer guidance on implementing effective controls from mine to export and include stronger government oversight of the diamond industry, including spot checks of industry compliance.

4. The plenary called for a review mission to Venezuela to investigate compliance with Kimberley Process obligations.

5. The Working Group on Statistics (WGS) reported that the Kimberley Process in 2006 monitored $37.6 billion in rough diamonds exports representing more than 500 million carats of rough diamonds. Participants issued 59,000 certificates to accompany those shipments. The WGS reported that participants are reporting data regularly and the quality of the data and the analysis has improved.

6. The plenary endorsed the concept of transparency in statistical reporting by approving the immediate release of Kimberley Process summary data on trade and production, by value and volume, and certificate counts for 2004 and 2005 data.

7. The Participation Committee welcomed New Zealand and Bangladesh as new participants in the Kimberley Process in 2006 bringing to 47 the total number of participants representing 71 countries (including the 25 members of the European Union represented by the European Commission). Seven countries are seeking participant status. The committee invited seven other countries in 2006 to consider joining the Kimberley Process. Observers from Liberia, Mali, Mexico and the Republic of Congo expressed interest in participating in the Kimberley Process and sent representatives to the plenary meeting. Liberia reported on progress in establishing a diamond certification scheme to satisfy the criteria of the Kimberley Process as requested in UN Security Council Resolution 1521.

8. The Working Group on Monitoring (WGM) reported that the Kimberley Process has completed 34 major peer reviews of participants – 15 of those reviews were conducted in 2006. In total 42 Participants have received or invited review visits thereby meeting the target set out in 2003 that "the largest number of Participants" should be monitored under the Peer Review mechanism. China, Ghana, Brazil, Guyana, Japan and Republic of Korea reported on their peer review visits. The WGM announced plans for a schedule of peer review including the start of a second round of review visits starting in 2007. All participants submitted their annual reports on Kimberley Process implementation, which were assessed by the Working Group on Monitoring.

9. The Working Group of Diamond Experts (WGDE) reported on preliminary development of "footprints" which characterize diamond production from Côte d'Ivoire. Further work will be done to develop similar "footprints" for other West African diamond producers. The plenary requested the WGDE organize a seminar on diamond origin determination. The WGDE also reported on a thorough geological assessment of the production capacity of the Republic of Congo by the French Bureau de Recherche Géologique et Minière (BRGM).

10. The plenary mandated the WGDE to approach the Harmonized System Committee of the World Customs Organization to advance classification issues and prepare a photo table.

11. Angola was selected to lead the new Working Group on Artisanal Alluvial Production which will address issues of particular concern to alluvial/artisanal producers. Alluvial-producing countries reported on efforts in 2006 in West and Central Africa and South America. Brazil agreed to meet with Venezuela to address regional diamond trade concerns regarding internal diamond controls. Guyana indicated strong interest in participating in the regional meeting.

12. The Coordinator for Technical Assistance reported on aid and capacity building efforts focused on Sierra Leone, Liberia, Guinea, Mali, the Central African Republic and Tanzania. The Dubai Diamond Exchange and De Beers are providing training for diamond evaluators from Liberia, Sierra Leone and Ghana. Canada is providing statistical training for participants. Belgium announced an initiative to launch a comprehensive study to develop an action plan to enhance

internal controls and address the problems of small-scale miners. Other donors were encouraged to provide financial and technical expertise to fellow Kimberley Process participants to help them develop tighter monitoring and control.

13. Presentations were made on the Diamond Development Initiative and the Extractive Industries Transparency Initiative. It was agreed that the Kimberley Process will be updated on these and other initiatives, which seek to address the governance, regulatory, and development issues facing countries with artisanal diamond mining. It also was agreed that the Kimberley Process will develop closer relations with the communities affected and civil society at the local level.

14. The Kimberley Process Chair's authority was transferred to the European Community for the year 2007. India was elected Vice-Chair for 2007. Russia was appointed to chair the Rules of Procedure committee.

15. The decisions taken by the Plenary will be considered to have been formally adopted once they have been translated into the official languages of the Plenary (English, French, Portuguese, Spanish and Russian), in accordance with Rule 26 of the KPCS Rules of Procedure, and made available to all Participants.

Enclosure 2

Third year review submitted by the Ad Hoc Working Group on the review of the Kimberley Process Certification Scheme

October 2006

EXECUTIVE SUMMARY

The Kimberley Process Certification Scheme (KPCS) is an example of international cooperation at its best. In the first three years of its operation it has proved remarkably successful, to the point that now the vast majority of production and international trade of rough diamonds are moved through official Kimberley channels. The successful implementation of the KPCS is based on a flexible and pragmatic approach, where *ad hoc* solutions are adopted because they worked, and Participants and Observers have volunteered the resources necessary.

In accordance with the KPCS document, Participants agreed to undertake a review of the Scheme after three years. This first Review focuses on three major areas: first, the impact of the KPCS on the international trade in rough diamonds, and the extent to which the Scheme has been effective in preventing the flow of conflict diamonds into the legitimate trade; second, the technical provisions of the Scheme and whether they are functioning as planned or require improvement; third, the operations of the Scheme, their effectiveness and efficiency.

As to its impact, the UNGA Resolution giving a mandate for the Kimberley Process has been renewed regularly, and has gained recognition from the UN Security Council. This widespread and continued international support confers an important measure of legitimacy upon the KPCS and acknowledges the efforts of KP Participants and Observers.

As well, all available data suggest that the majority of the international trade in rough diamonds is now carried on within the KPCS. All significant diamond producing and trading centers (with the exception of Liberia, which remains under UN diamond sanctions) are implementing the KPCS. As well, the KP has contributed to substantial increases since 2003 in the proportion of rough diamonds exported through official channels in countries previously affected by conflict diamonds. Nevertheless, conflict diamonds are still being mined by rebel groups in Côte d'Ivoire and are reported to be entering the legitimate trade. There are also reports of illicit diamond extraction and trading by rebel factions and militias in the Democratic Republic of Congo.

The technical provisions of the Scheme are working well overall, and are being enforced, as indicated by a number of seizures of irregular shipments and prosecutions for infringements of KPCS regulations. As to be expected with an international scheme of such complexity, technical problems continually arise; these are addressed by the Working Group on Diamond Experts and by many suggestions of Participants enumerated in this Review in the form of recommendations. The major problem that emerged in the Review is the effective implementation of internal controls, which

remains an important challenge. This problem is addressed by a series of recommendations, which should be implemented immediately, as a major priority of the KP.

The Scheme is operating well, and the statistics and peer review monitoring systems are proving to be essential tools. However they could be improved. Participants and Observers made many recommendations in the areas of statistical requirements and the peer review monitoring system that have been included in the Review's recommendations.

Enclosure 3

List of Kimberley Process participants as at Gaborone plenary

1. Angola
2. Armenia
3. Australia
4. Bangladesh
5. Belarus
6. Botswana
7. Brazil
8. Bulgaria
9. Canada
10. Central African Republic
11. China, People's Republic of
12. Congo, Democratic Republic of
13. Cote D'Ivoire
14. Croatia
15. European Community
16. Ghana
17. Guinea, Conakry
18. Guyana
19. India
20. Indonesia
21. Israel
22. Japan
23. Korea, Republic of
24. Lao, Democratic Republic of
25. Lebanon
26. Lesotho
27. Malaysia
28. Mauritius
29. Namibia
30. New Zealand
31. Norway
32. Romania
33. Russian Federation
34. Sierra Leone
35. Singapore
36. South Africa
37. Sri Lanka
38. Switzerland
39. Tanzania
40. Thailand
41. Togo
42. Ukraine
43. United Arab Emirates
44. United States of America
45. Venezuela
46. Vietnam
47. Zimbabwe

Note: The rough diamond trading entity of Chinese Taipei has also met the minimum requirements of the KPCS

Enclosure 4

Composition of Kimberley Process working groups

1. Working Group on Monitoring:

Canada
Central African Republic
European Community (Chair)
India
Israel
People's Republic of China
Russian Federation, South Africa
United States
World Diamond Council (WDC)
Global Witness and Partnership Africa Canada

2. Working Group on Statistics

Angola
Botswana
Canada (Chair)
People's Republic of China
European Community
India
Israel
Russia
South Africa
Switzerland
United States Of America
World Diamond Council and
NGOs: Partnership Africa Canada

3. Working Group on Participation:

Angola
Botswana
Canada
People's Republic of China
European Community
India
Israel
Russian Federation (Chair)
South Africa

United States
World Diamond Council and Partnership Africa Canada/Global Witness

4. Working Group on Diamond Experts

World Diamond Council (Chair)
South Africa
Australia
Botswana
Canada
European Community
Israel
Russia
India and
China

5. Ad Hoc sub-group on Alluvial Mining

Coordinators:

- Democratic Republic of Congo (for Central and Southern Africa)
- Sierra Leone (for West Africa)
- Brazil (for South America)

Members:

- Angola
- Brazil
- Central African Republic
- Democratic Republic of Congo
- Côte d'Ivoire
- Ghana
- Guinea
- Guyana
- Namibia
- Sierra Leone
- South Africa
- Tanzania
- Togo
- Venezuela
- Zimbabwe
-World Diamond Council
- NGO's

The Chair and Vice-Chair of the Kimberley Process and the Chair of the Working Group on Monitoring are *ex-officio* members of the sub-group.